

1 LAWRENCE G. BROWN
2 United States Attorney
3 MARY L. GRAD
4 Assistant U.S. Attorney
5 501 I Street, Suite 10-100
6 Sacramento, California 95814
7 Telephone: (916) 554-2763

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10
11 UNITED STATES OF AMERICA,) CASE NO. 2:99-CR-00270-WBS
12 Plaintiff,)
13 v.) STIPULATION AND [PROPOSED]
14 FRANCISCO ACOSTA ASTORGA) ORDER
15 Defendant and Movant.)

16
17 IT IS HEREBY STIPULATED between the Defendant, Francisco Acosta
18 Astorga, through his counsel Clyde M. Blackmon and James F. Smith,
19 and the United States of America, through its counsel Assistant
20 United States Attorney Mary Grad, that the defendant will waive the
21 attorney-client privilege as to communications with his previous
22 attorneys, James Todd Bennett and Daniel Schultz, only to the extent
23 necessary for litigating the defendant's claim of ineffective
24 assistance of counsel.

25 All information obtained by the government pursuant to its
26 motion to discover documents and take depositions, as well as the
27 testimony of James Todd Bennett, Daniel Schultz and petitioner, shall
28 be deemed to be confidential. These documents, depositions and

1 testimony may be used only by representatives from the Office of the
2 United States Attorney for the Eastern District of California and
3 only for the purpose of litigating the claims presented in the motion
4 to vacate pending before this Court. Disclosure of the contents of
5 the documents, depositions or testimony may not be made to any other
6 persons or agencies, including any other law enforcement or
7 prosecutorial personnel or agencies, without an order from the Court.

8 The preclusion of the use of information contained in documents,
9 depositions or testimony shall continue in effect after the
10 conclusion of the proceedings now pending in this Court and
11 specifically shall apply in the event of a retrial of all or any
12 portion of petitioner's criminal case, except that either party
13 maintains the right to request modification or vacation of the order
14 upon entry of final judgment in this matter.

LAWRENCE G. BROWN
United States Attorney

17 || Date: October 13, 2009

____/s/ Mary L. Grad
By: MARY L. GRAD
Assistant United States Attorney

BLACKMON & ASSOCIATES
Attorneys for Defendant F. A. Astorga

21 || Date: October 13, 2009

/s/ Clyde M. Blackmon
By: CLYDE M. BLACKMON

ORDER

2 GOOD CAUSE APPEARING, PURSUANT TO THE ABOVE STIPULATION, IT IS
3 HEREBY ORDERED THAT all information obtained by the government
4 pursuant to its motion to discover documents and take depositions, as
5 well as the testimony of trial counsel and petitioner, shall be
6 deemed to be confidential. These documents, depositions and
7 testimony may be used only by representatives from the Office of the
8 United States Attorney for the Eastern District of California and
9 only for the purpose of litigating the claims presented in the motion
10 to vacate pending before this Court. Disclosure of the contents of
11 the documents, depositions or testimony may not be made to any other
12 persons or agencies, including any other law enforcement or
13 prosecutorial personnel or agencies, without an order from this
14 Court.

15 The preclusion of the use of information contained in documents,
16 depositions or testimony shall continue in effect after the
17 conclusion of the proceedings now pending in this Court and
18 specifically shall apply in the event of a retrial of all or any
19 portion of petitioner's criminal case, except that either party
20 maintains the right to request modification or vacation of the order
21 upon entry of final judgment in this matter.

Nothing in this Order shall be construed to prevent or restrict any party to this action from presenting any evidence, from whatever source obtained, to the court. Any evidence submitted to the court in connection with this proceeding, including the testimony of witnesses and all exhibits submitted at the hearing on defendant's pending motion, shall be a matter of public record and open to public inspection unless otherwise specifically ordered by this court.

1 IT IS SO ORDERED.
2
3 DATED: October 14, 2009
4

5 
6 WILLIAM B. SHUBB
7 UNITED STATES DISTRICT JUDGE
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28